THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 20635 OF 2005

Dated 20th September 2005

Between:

N.Sanyasi Raju S/o.late Guraiah.

...Petitioner

And

The Chairman & Managing Director,

M/s.Hindustan Shipyard limited, Visakhapatnam & another.

...Respondents

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WRIT PETITION No.20635 OF 2005

O R D E R:

The petitioner was working as Senior Security Officer in the Hindustan Shipyard Limited. Disciplinary proceedings were initiated against him, and ultimately, through order dated 2.4.2005, the first respondent removed him from service. The petitioner preferred an appeal, in terms of Rule 34 of Conduct, Disciplinary and Appeal Rules, 1978, for short "the Rules". The grievance of the petitioner is that the first respondent is notified, as the disciplinary, as well as appellate authority, as regards the orders of removal.

The learned counsel for the petitioner contends that the Rules bring about an untenable situation in law, and that the first respondent cannot act both as disciplinary, as well as appellate authority. Learned Standing Counsel who took notice at the stage of admission, submits that in the normal circumstances, no authority would be notified, as disciplinary, as well as appellate authority, and in the fitness of things, the appeal needs to be placed before the Board.

The limited grievance of the petitioner is that in the set of rules made available to him, the first respondent is shown as the disciplinary, as well as appellate authority. It is not known whether such a stipulation is on account of any typographical error, or whether it has since been rectified. It is impermissible for any authority, who passed an order of removal, to act as appellate authority. Such a course would run contrary to the basic tenets of adjudication. The Board is prescribed as the appellate authority in several cases.

In that view of the matter, the writ petition is disposed of, directing that the appeal preferred by the petitioner shall be placed before the Board, and the Board, in turn, shall dispose of the same, within a period of three months, from the date of receipt of a copy of this order. There shall be no order as to costs.

20th September 2005

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